for no distinct equitable relief. *Held*, that this proceeding does not invest these foreign receivers with powers to sue in Illinois. *Fairview Fluor Spar & Lead Co.* v. *Ulrich*, 44 Chic. Leg. News 81 (C. C. A., Seventh Circ.). See NOTES, p. 282.

RIGHT OF SUPPORT — DRAINAGE OF PERCOLATING WATERS. — The defendant, while draining its land, withdrew water from the subterranean soil of the plaintiff's adjoining land. This caused a consolidation of the earth and a settlement of the surface, to the damage of the plaintiff. *Held*, that the plaintiff cannot recover. *New York, etc. Filtration Co.* v. *Jones*, 39 Wash. L. R. 718 (D. C., Ct. App.).

This case seems to be the first American decision on the subject. It follows the well-settled English rule that the right of lateral support of an adjoining landowner is subordinate to one's own right of intercepting percolating waters. *Popplewell* v. *Hodkinson*, L. R. 4 Exch. 248; *North-Eastern Ry. Co.* v. *Elliot*, 1 Johns. & H. 145. The reason for this doctrine is that otherwise there would be a tendency to restrict the improvement of land for engineering, agricultural, and similar purposes. See 20 HARV. L. REV. 487.

TORTS — INTERFERENCE WITH BUSINESS OR OCCUPATION — COMPETITION BETWEEN WHOLESALER AND RETAILER. — The defendant, a wholesaler of oil, when the plaintiff, a retailer, began purchasing of other wholesalers, entered into the retail business to drive the plaintiff from business, and by means which involved trespasses and fraud ruined the plaintiff's business. The defendant then retired from the retail business. *Held*, that the plaintiff has a cause of action against the defendant. *Dunshee* v. *Standard Oil Co.*, 132 N. W. 371 (Ia.).

Modern authority holds an intentional interference with the plaintiff's business an actionable wrong which calls for justification. *Jersey City Printing Co.* v. *Cassidy*, 63 N. J. Eq. 759, 53 Atl. 230. See *Mogul Steamship Co.* v. *McGregor, Gow & Co.*, 23 Q. B. D. 598, 613. If the defendant is directly or indirectly a real business competitor of the plaintiff, he is justified, unless methods unlawful *per se* are used. *Robison* v. *Texas Pine Land Association*, 40 S. W. 843 (Tex.). Cutting prices is not a method of business which of itself will destroy the justification of competition. *Passaic Print Works* v. *Ely & Walker Dry Goods Co.*, 105 Fed. 163; *Mogul Steamship Co.* v. *McGregor, Gow & Co.*, *supra*. The principal case professes to follow a case holding a banker liable for setting up a barber shop, not for profit, but solely to injure the plaintiff's business. *Tuttle* v. *Buck*, 107 Minn. 145, 119 N. W. 946. See 22 HARV. L. REV. 616. But in that case there was no competition between the parties, and hence no justification. There are competitive interests which justify a retailer's attempt to control the business policy of a wholesaler of the same commodity. *Bohn Mfg. Co.* v. *Hollis*, 54 Minn. 223, 55 N. W. 1119. The same interests would seem to justify a wholesaler's attempt to control the business policy of a retailer. The actual decision of the principal case is correct, since fraud and trespass are means which are unlawful *per se*, and hence destroy the justification of competition. *American Waltham Watch Co.* v. *United States Watch Co.*, 173 Mass. 85. It was unnecessary, therefore, for the court to take the ground that the purpose of the defendant itself destroyed that defense. *Cf. Dunshee* v. *Standard Oil Co.*, 126 N. W. 342 (Ia.).

TRUSTS — CREATION AND VALIDITY — BEQUEST UPON SECRET UNDERSTANDING. — A woman who desired to leave her property to certain charities was warned by her solicitor that such a bequest would be void under the local mortmain statute. She therefore made an absolute bequest to a trust company of which the solicitor was an assistant trust officer. *Held*, that there is a trust for charity rendering the gift void. *In re Stirk's Estate*, 81 Atl. 187 (Pa.).

Where a testator makes an absolute gift with the understanding that the donee shall transfer the property received to a third party, the donee will be made to hold as trustee for that third party. *Hoge* v. *Hoge*, 1 Watts (Pa.) 163. These trusts are imposed on the ground that it would be fraud for the donee to take absolutely, knowing that he is only meant to take for another's benefit. See *Matter of O'Hara*, 95 N. Y. 403, 413. If there is actual communication of the testator's wishes to the donee, the courts hold that his silence amounts to a consent to a trust. See *Trustees of Amherst College* v. *Ritch*, 151 N. Y. 282, 324, 45 N. E. 876, 887. More accurately, he is bound whether he consents or not. But to impose a trust some connection previous to the testator's death must be established between the donee to be charged and the testator's intentions. *Wallgrave* v. *Tebbs*, 2 Kay & J. 313; *Schultz's Appeal*, 80 Pa. St. 396. In the principal case this must rest entirely upon the relation of the solicitor to the trust company. Moreover, it is somewhat difficult to work out an intent of the testatrix to impose a trust, in the absence of which there could be no trust. *Lomax* v. *Ripley*, 3 Smale & G. 48.

WATERS AND WATERCOURSES — SURFACE WATERS — RIGHT TO FACILITATE DRAINAGE. — A valley draining the surface water in boggy soil ran through two adjoining farms. The owner of the upper farm constructed a system of drains in his part of the valley which temporarily increased the amount of water discharged upon the lower farm, but did not divert the direction of flow. *Held*, that the lower owner is not entitled to an injunction. *Perry* v. *Clark*, 132 N. W. 388 (Neb.).

The civil-law rule that the lower estate must receive the natural flow of surface water obtains in many jurisdictions. *Pinkstaff* v. *Steffy*, 216 Ill. 406, 75 N. E. 163. See *Central of Georgia Ry. Co.* v. *Keyton*, 148 Ala. 675, 41 So. 918, 921. Under this rule, diversion or unnatural increase of the flow is actionable. *Rhoads* v. *Davidheiser*, 133 Pa. St. 226, 19 Atl. 400. *Cf. Livingston* v. *McDonald*, 21 Ia. 160. But it has been expressly held that this does not apply where the change results from improvements in city lots. *Hall* v. *Rising*, 141 Ala. 431, 37 So. 586. See *Los Angeles Cemetery Association* v. *City of Los Angeles*, 103 Cal. 461, 467, 37 Pac. 375, 377. But see *Garland* v. *Aurin*, 103 Tenn. 555, 561, 53 S. W. 940, 941. And there is a tendency to subordinate the rule to the interest of good husbandry by allowing reasonable changes in the drainage. *Fenton & Thompson R. Co.* v. *Adams*, 221 Ill. 201, 77 N. E. 531. Other jurisdictions accept the common-law doctrine that surface water is a common enemy, against which anyone may defend himself. *Walker* v. *New Mexico & Southern Pacific R. Co.*, 165 U. S. 593; *Cass* v. *Dicks*, 14 Wash. 75, 44 Pac. 113. This is the rule in the jurisdiction of the principal case. *Morrissey* v. *Chicago, Burlington & Quincy R. Co.*, 38 Neb. 406, 56 N. W. 946. This right usually affords ample protection against interference with the flow, and no action is allowed therefor. *Gannon* v. *Hargadon*, 10 All. (Mass.) 106; *Manteufel* v. *Wetzel*, 133 Wis. 619, 114 N. W. 91. Some jurisdictions qualify this right by allowing an action where the interference is unnecessary or negligent. *Brown* v. *Winona & Southwestern R. Co.*, 53 Minn. 259, 55 N. W. 123. See *Aldritt* v. *Fleischauer*, 74 Neb. 66, 70, 103 N. W. 1084, 1085. Since in the principal case the drains were beneficial, and there was no diversion, and the increase was only temporary, the decision is clearly right.